

TRANSLATION



THE MARITIME AND COMMERCIAL HIGH COURT

JUDGMENT

given on 29 May 2018

Case no. BS-7796/2018-SHR

3SHAPE TRIOS A/S
(Mikkel Vittrup, attorney)
(Peter Nørgaard, attorney)
and

3SHAPE A/S
(Mikkel Vittrup, attorney)
(Peter Nørgaard, attorney)
and

3Shape, Inc.
(Mikkel Vittrup, attorney)
(Peter Nørgaard, attorney)
and

vs.

Align Technology, Inc.
Represented by Kenneth Kvistgaard-Aaholm, attorney

This judgment was delivered by judge Mette Skov Larsen.

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The Court's reasoning and result:

It remains uncontested that the forwarding of the writ by UPS to Align does not constitute service by letter pursuant to the provisions of the Danish Administration of Justice Act, and equally the writ was not otherwise served pursuant to section 158 of said Act.

The only question remaining to be addressed is therefore to what extent section 163(2) of the Administration of Justice Act applies in a situation like the one at hand which concerns service abroad.

The provision, which most recently was amended by Danish Act no. 1242 of 18 December 2012 and where a reference to section 157a of the Administration of Justice Act was added, does not refer to section 158 of the Administration of Justice Act, and nothing in the legislative history supports the assumption that the provision should also apply in a situation where the writ is serviced abroad.

Irrespective of the fact that the underlying considerations for the provision set out in section 163(2) of the Administration of Justice Act also apply in this case, where Align uncontestedly has received the writ, the Court finds that the provision does not apply in a situation where the writ is served abroad, and therefore the writ cannot be regarded as having been served on Align.

The case is therefore deferred pending due service of the writ.

IT IS HELD THAT:

The case is deferred pending due service of the writ.

Mette Skov Larsen